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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,001	09/26/2005	Medasani Munisekhar	VISH0101PUSA	1418
22045	7590	01/03/2008		
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			EXAMINER CHEN, CATHERYNE	
			ART UNIT 1655	PAPER NUMBER
			MAIL DATE 01/03/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,001

Applicant(s)

MUNISEKHAR, MEDASANI

Examiner

Catheryne Chen

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>May 31, 2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Currently, Claims 1-15 are pending. Claims 1-15 are examined on the merits.

Election/Restrictions

Applicant's election without traverse of the species vanilla extract, potassium chloride, ammonium chloride, and a quaternary ammonium compound, and ammonium laureth sulphate in the reply filed on Oct. 9, 2006 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-15, the phrase "and like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In Claims 1, 2, and 8, what is meant by "psoriasis, eczema and like skin disorders application?"

In Claim 7, what is meant by "like vanilla planifolia?"

In Claims 10, 12, what is meant by "like ammonium chloride?"

In Claim 15, what is "like Ayurveda, Siddha, Unani and Homeopathic?"

Claim 3 is indefinite because it is not clear what is exactly encompassed by "derivative" of vanilla. Since applicant's definition of "derivative" is opened ended, what is encompassed by "derivative" cannot be definitely determined. Numerous compounds could possibly be derived from vanilla including simple elements like carbon and hydrogen. It is not clear what compounds would still be considered "derivatives" in keeping with this limitation in the claims and what is taught in applicant's specification.

In Claims 1-15, what is "enhanced?"

In Claims 9-10, what is meant by "enhancement?"

In Claims 12, 15, what is encompassed by "etc?"

In Claim 15, what is "any system of medicines like Ayurveda, Siddha, Unani and Homeopathic?"

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8, 10-12, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trage et al. (US 2002/0111280 A1).

Trage et al. teaches care agent, which comprise matrix particles having a perfume component and a washing-active surfactant component, care agents can be used in body-cleansing (paragraph 0001). Matrix particles can be prepared by dissolving a multifunctional polysaccharide in water (paragraph 0012), potassium chloride (paragraph 0014), vanilla extract (paragraph 0022), cocamidopropyl betaine (a quaternary ammonium) (paragraph 0057), ammonium chloride (paragraph 0063), 0.1 to 50 parts by weight of washing-active surfactant component (paragraph 0060), 0.1 to 5 parts by weight of electrolytes (paragraph 0064), as shower gel (paragraph 0079), fillers (Claim 23). However, it does not teach the claimed concentrations.

The reference does teach that each of the claimed ingredients is suitable for combination in a pharmaceutical composition. Thus, an artisan of ordinary skill would be reasonably expected that the claimed ingredient could be combined together to produce a single pharmaceutical product. This reasonable expectation of success would motivate the artisan to combine the claimed ingredients together into a single composition.

The reference also does not specifically teach adding the ingredients in the amounts claimed by applicant. The amount of a specific ingredient in a composition is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. "[W]here the general conditions of a claim are disclosed in the prior

art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Thus, optimization of general conditions is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each ingredient to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant's invention.

Claims 1-8, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trage et al. (US 2002/0111280 A1) as applied to claims 1-8, 10-12, 14-15 above, and further in view of Knoll et al. (US 4822604).

Trage et al. teaches care agent, which comprise matrix particles having a perfume component and a washing-active surfactant component, care agents can be used in body-cleansing (paragraph 0001). Matrix particles can be prepared by dissolving a multifunctional polysaccharide in water (paragraph 0012), potassium chloride (paragraph 0014), vanilla extract (paragraph 0022), cocamidopropyl betaine (a quaternary ammonium) (paragraph 0057), ammonium chloride (paragraph 0063), 0.1 to 50 parts by weight of washing-active surfactant component (paragraph 0060), 0.1 to 5 parts by weight of electrolytes (paragraph 0064), as shower gel (paragraph 0079), fillers (Claim 23). However, it does not teach the claimed concentrations and pH.

Knoll et al. teaches a clear therapeutic hair care composition having a low pH and useful in the local treatment of psoriasis of the scalp (Abstract).

Control of pH is important in keeping chemical solutions stable. Thus, it would be obvious to make a composition with a pH specification, such as that taught by Knoll et al. An artisan of ordinary skill would clearly expect that the pH taught by Knoll et al. would function successfully to administer the composition taught by Trage et al. This reasonable expectation of success would motivate the artisan to modify the composition to include pH as an effective means to administer the composition.

The reference also does not specifically teach adding the ingredients in the amounts claimed by applicant. The amount of a specific ingredient in a composition is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Thus, optimization of general conditions is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each ingredient to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant's invention.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trage et al. (US 2002/0111280 A1) and Knoll et al. (US 4822604) as applied to claims 1-8, 10-15 above, and further in view of Gehlsen (US 2001/0018059 A1).

Trage et al. teaches care agent, which comprise matrix particles having a perfume component and a washing-active surfactant component, care agents can be used in body-cleansing (paragraph 0001). Matrix particles can be prepared by dissolving a multifunctional polysaccharide in water (paragraph 0012), potassium chloride (paragraph 0014), vanilla extract (paragraph 0022), cocamidopropyl betaine (a quaternary ammonium) (paragraph 0057), ammonium chloride (paragraph 0063), 0.1 to 50 parts by weight of washing-active surfactant component (paragraph 0060), 0.1 to 5 parts by weight of electrolytes (paragraph 0064), as shower gel (paragraph 0079), fillers (Claim 23). However, it does not teach the claimed concentrations, pH and ammonium laureth sulphate.

Knoll et al. teaches a clear therapeutic hair care composition having a low pH and useful in the local treatment of psoriasis of the scalp (Abstract).

Gehlsen teaches topical delivery composition (paragraph 0001), to treat skin disorders such as psoriasis, eczema, and other skin disease states (paragraph 0025), ammonium laureth sulfate (paragraph 0045), as solids, creams, lotions, gels, and liquids, cleansers, soaps, shampoos, conditioners, make-u products, aftershaves and toners/bracers/skin conditioners (paragraph 0051), as a cloth, tissue, swab, stick or brush, spraying, mist, aerosol or foam spraying (paragraph 0055), patch (paragraph 0061).

Control of pH is important in keeping chemical solutions stable. Thus, it would be obvious to make a composition with a pH specification, such as that taught by Knoll et al. An artisan of ordinary skill would clearly expect that the pH taught by Knoll et al. would function successfully to administer the composition taught by Trage et al. This reasonable expectation of success would motivate the artisan to modify the composition to include pH as an effective means to administer the composition.

The references also do not specifically teach combining all of the ingredients together. The references do teach that the compositions are used for topical applications (see discussion above). As discussed in MPEP 2144.06:

It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art.

Thus, it would be obvious to combine all of the claimed ingredients because they are taught in the reference to have the same purpose.

The reference also does not specifically teach adding the ingredients in the amounts claimed by applicant. The amount of a specific ingredient in a composition is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Thus, optimization of general conditions is a routine practice that would be obvious for a

person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each ingredient to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant's invention.

Conclusion

No claim is allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catheryne Chen whose telephone number is 571-272-9947. The examiner can normally be reached on Monday to Friday, 9-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Catheryne Chen,
PhD, Esq.
Patent Examiner
Art Unit 1655

/Susan Hoffman/
Primary Examiner, Art Unit 1655
December 20, 2007